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Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL APPEAL NO. 247 / 2007 SB

Appellant (In Jail) :**Holiram @ Santosh Sahu**
S/o Kunwar Singh Sahu
Aged about 38 years,
R/o Village Rusey, Chowki-Pandatarae
P.S- Kunda, Dist: Kawardha (C.G.)

1457/07
23/8/07
Filed on .....
by Shri ..... Advocate
R. to D.R. (J)

Versus

Respondent : State of Chhattisgarh
Through P.S- Kunda
Dist- Kabirdham (C.G)

MEMORANDUM OF APPEAL U/S 374 (2) OF THE CODE OF CRIMINAL PROCEDURE.

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Mr. Justice Pritinker Diwaker

Criminal Appeal No.247 of 2007

APPELLANT Holiram @ Santosh Sahu
(In jail)

Versus

RESPONDENT State of Chhattisgarh

Shri Ashok Dixit, counsel for the appellant.
Shri Vivek Sharma, Panel Lawyer for the State.

CRIMINAL APPEAL UNDER SECTION 374 (2) OF THE CODE OF CRIMINAL PROCEDURE

O R D E R
(20.04.2010)

Present appeal arises out of the impugned judgment and order dated 20.3.2007 passed by Special Judge, Kabirdham, in Special Case No. 47/2006 convicting the accused/appellant for the offence punishable under Section 20 (b)(ii) (B) of the Narcotic Drugs and Psychotropic Substances Act and sentencing him to undergo rigorous imprisonment for four years, and pay fine of Rs.10,000, in default of payment of fine to further undergo rigorous imprisonment for six months.

2. Case of the prosecution in brief is that on 18.10.2006 when A.R. Sahu (PW-13), Assistant Sub Inspector, out post Pandatari, Police Station Konda was on his patrolling duty, he received secret information from the informant that three persons have brought Ganja in a jeep bearing registration No. CG -10-ZD-0517 and the accused/appellant is in possession of the same. After sending memo Ex.P-2 to his Superior Officer, the said officer reached on the spot and caught hold of four accused persons namely Holiram, Chhatrapal, Bajrang Singh &

Ashokdas. After completing the formalities, 20 kg 200 gms Ganja was seized from the possession of the accused/appellant. After investigation the challan was filed against four other accused persons and they were prosecuted by the trial Court.

3. So as to hold to accused/appellants guilty, prosecution has examined as many as 14 witnesses in support of its case. Statement of the accused persons were also recorded under Section 313 of the Code of Criminal Procedure in which he denied the charges levelled against them and pleaded their innocence and false implication in the case.

4. After hearing the parties the trial Court has acquitted three co-accused persons but has convicted and sentenced the present accused/appellants as mentioned above. Hence this appeal.

5. Heard counsel for the parties and perused the material available on record including the judgment impugned.

6. Counsel for the appellant submits that he is not pressing this appeal as far as it relates to conviction part of the impugned judgment and would confine his argument to the sentence part thereof only. According to him, as the appellant is in jail since 18.10.2006 i.e. since last about three years and six months, it would be in the interest of justice if the sentence imposed on him is reduced to the period already undergone by him. He submits that there is no past criminal record against the accused/appellant and therefore, lenient view may be taken by this court. He submits that fine amount

has already been deposited by the accused/appellant. To this, counsel for the State has no serious objection.

7. In view of above, the appeal is partly allowed. Conviction part of the impugned judgment is maintained. Appellant is reported to have remained in jail for three years & six months, fine amount has already been deposited by him and that he has no past criminal record, therefore, his sentence is reduced to the period already undergone by him.

8. Appeal thus partly succeeds.

Sd/-
Pritinker Diwaker
Judge

D/-